

similar to such company. The exception would not appropriately be applied, on the other hand, if the practitioner handled an acquisition by a company whose headquarters and operations were in State A of a company whose headquarters and main operations were in State A, but which also had some operations in State B.

If two admitting jurisdictions were to proceed against a practitioner for the same conduct, they should, applying this rule, identify the same governing ethics rules. They should take all appropriate steps to see that they do apply the same rule to the same conduct, and in all events should avoid proceeding against a practitioner on the basis of two inconsistent rules.

If an attorney admitted in State A also is a registered practitioner, the practitioner may view that he or she is subject to possibly different ethical obligations under State and Office rules regarding disclosure of prior art references. Typically, this obtains in patent matters where the practitioner is informed by the client of the existence

of a prior reference that appears to the practitioner to be material to the patentability of the client's patent application, but the client believes the reference is not directly relevant to the invention, and does not want to disclose the reference to the Office. The practitioner is engaged in practicing before the Office. It would be appropriate to apply § 11.805(b) and follow the Office rules, §§ 1.56 and 11.106(c), requiring disclosure of information material to the patentability of a claimed invention. *See* Formal Opinion 96–12, Professional Guidance Committee of the Philadelphia Bar Association (1996).

The choice of law provision is not intended to apply to practice abroad.

Section 11.806 would address sexual relations with clients, employees, and third persons.

Paragraph (a) of § 11.806 would define “sexual relations” as intercourse or touching another person for the purpose of sexual arousal, sexual gratification, or sexual abuse. Paragraph (b)(1) of § 11.806 would proscribe a

practitioner from requiring sexual relations with a client or third party incident to or as a condition of any professional representation. Paragraph (b)(2) of § 11.806 would proscribe sexual relations with an employee incident to or as a condition of employment. Under paragraph (b)(3) of § 11.806, use of coercion, intimidation, or undue influence in entering into sexual relations with a client, or employee is proscribed.

Paragraph (c) of § 11.806. Under paragraph (c) of § 11.806, the regulation would not apply to sexual relations between practitioners and their spouses or to ongoing consensual sexual relationships predating the practitioner-client relationship or practitioner-employee relationship.

Paragraph (d) of § 11.806. Under paragraph (d) of § 11.806, practitioners in the firm would not be subject to discipline solely because a practitioner in the firm has sexual relations with a client but the practitioner does not participate in the representation of that client.

TABLE 1.—PRINCIPAL SOURCE OF SECTIONS 11.1 THROUGH 11.18

Section	Source	Part 10 concordance
§ 11.1	37 CFR 10.1	§ 10.1
§ 11.2	MRPR	
§ 11.2	37 CFR 10.2	§ 10.2
§ 11.3	DC RULE XI, § 6	
§ 11.4	37 CFR 10.170	§ 10.170
§ 11.4	37 CFR 10.3	§ 10.3
§ 11.5	37 CFR 10.5	§ 10.5
§ 11.6	37 CFR 10.6	§ 10.6
§ 11.7(a)(b)	37 CFR 10.7(a)	§ 10.7(a)
§ 11.7(b)(1)	37 CFR 10.7(b)	§ 10.7(b)
§ 11.7(b)(2)	New	None
§ 11.7(c)	37 CFR 1.8 and 1.10	None
§ 11.7(d)	Case law	None
§ 11.7(e)	RDCCA 46(12)(ii), third sentence	
§ 11.7(f)	New	§ 10.7(b)
§ 11.7(g)	New	None
§ 11.7(h)	37 CFR 10.6(c)	§ 10.6(c)
§ 11.7(i)	37 CFR 10.7(b)	§ 10.7(b)
§ 11.7(j)	37 CFR 10.7(a)	§ 10.7(a)
§ 11.7(k)	Case law	None
§ 11.8(a)	California State Bar Policy	None
§ 11.8(b)–(c)	FlaRSC 2–13	None
§ 11.8(d)	GaSCR Part A, § 11	None
§ 11.9(a)–(c)	MoSCR 8.05	None
§ 11.10(a)	California State Bar Policy	None
§ 11.10(b)	RDCCA 46(f)–(g)	None
§ 11.10(c)	<i>Willner v. Comm. on Character & Fitness</i> , 373 U.S. 96 (1963)	
§ 11.10(d)–(e)	Colo. Rule 201.12	None
§ 11.11(a)	RDCCA 46(b)(10)	None
	RDCCA 46(h)(2), (3)	None
	OGVSB Rule 11	None
	37 CFR 10.9(a)–(c)	§ 10.9
	37 CFR 10.10(a)	§ 10.10
	5 CFR 2637.201	§ 10.10(b)
	5 CFR 2637.202	§ 10.10(b)
	5 CFR 2637.201	None
	5 CFR 2637.202	None
	37 CFR 10.10(c)–(d)	§ 10.10(c)–(d)
	37 CFR 10.11(a)	§ 10.11(a)